

Remarks/Arguments

The foregoing amendment to claim 55 is of a formal nature, and does not add new matter. Applicants thank the Examiner for withdrawing some of the previous objections and rejections to the claims.

Prior to the entry of present amendment, claims 39-47, 49-52 and 54-58 were pending in this application. Claims 44-47 and 49-51 have been indicated as allowable. Claims 39-43, 52 and 54-58 have been rejected on various grounds.

Without acquiescing to the Examiner's position, Applicants have canceled claims 39-43 solely to expedite prosecution in this application. With the foregoing amendment, Claims 55-58 have been made dependent on allowed Claim 44, and should, therefore, be allowed for the same reason.

The rejections to the remaining claims are respectfully traversed.

Claim Rejections – 35 USC § 112- Enablement and Written Description

1) Claims 39-43, 52 and 54-58 are rejected under 35 U.S.C. §112, first paragraph, for allegedly not enabling any person skilled in the art to make and/or use the invention commensurate in scope with the claims.

In view of the cancellation of claims 39-43 and 52-54, the rejection to these claims is rendered moot. Applicants respectfully traverse this rejection to the remaining pending claims.

By indicating that Claims 44-47 and 49-51 as allowable, the Examiner has inherently acknowledged that those claims have utility and are enabled based on Example 77 or the "skin vascular permeability assay described on page 210, lines 22 which describes a dye-based proinflammatory cell infiltration assay. Claims 55-58, which are now dependent on allowable claim 44, are also entitled to this utility and are therefore enabled for the same reason.

Hence, the Examiner is respectfully requested to reconsider and withdraw the present rejection.

2) Claims 52 and 54 are rejected under 35 U.S.C. §112, first paragraph, for alleged lack of adequate written description.


In view of the cancellation of claims 52-54, the rejection to these claims is rendered moot.

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No.: 39780-1618P2C78). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: October 29, 2003


Daphne Reddy
Reg. No. 53,507

HELLER EHRMAN WHITE & McAULIFFE LLP

Customer No. 35489

275 Middlefield Road

Menlo Park, California 94025

Telephone: (650) 324-7000

Facsimile: (650) 324-0638

454337v1